

CITY AUDITOR'S OFFICE



SPECIAL REPORT AGREEMENT BETWEEN LAS VEGAS SPORTSPARK LTD. AND THE CITY OF LAS VEGAS

Report No. CAO 2400-0001-01

August 15, 2000

RADFORD K. SNELDING, CPA, CIA, CFE

CITY AUDITOR

August 15, 2000

Mayor Oscar Goodman
Councilman Michael J. McDonald
Councilman Gary Reese
Councilman Larry Brown
Councilwoman Lynette Boggs McDonald
Councilman Lawrence Weekly
Councilman Michael Mack
City of Las Vegas Audit Committee

Subject: CAO 2400-0001-01 - Special Report - Agreement between Las Vegas Sportspark Ltd. and the City of Las Vegas

Attached please find the report mentioned above. Las Vegas Sportspark Ltd. comments are included as Attachment I to the report.

Sincerely,

Radford K. Snelding, CPA, CIA, CFE
City Auditor

August 14, 2000

**SPECIAL REPORT
AGREEMENT BETWEEN LAS VEGAS SPORTSPARK LTD. AND
THE CITY OF LAS VEGAS
CAO 2400-0001-01**

OBJECTIVES

The Mayor and City Council directed the City Auditor's Office to audit the Las Vegas Sportspark Development and Management Agreement (Agreement). The Agreement is between Las Vegas Sportspark Ltd. (Sportspark) and the City of Las Vegas. Our audit objectives included:

- ? Determining compliance with the terms of the Agreement; and
- ? Answering questions posed by the City Council.

SCOPE AND METHODOLOGY

Fieldwork was performed in accordance with applicable generally accepted governmental auditing standards as defined in Operating Instruction A.40 of the City Auditor's Office Operating Instructions Manual. General audit procedures included:

- ? Interviewing personnel;
- ? Observing operations and activities; and
- ? Reviewing records, reports, and other applicable documentation.

An audit of the Statement of Gross Revenues for the preceding calendar year was not performed.

Our scope was externally impaired in the following way:

- ? We were denied access to some sources of information including books, records, and supporting documents.

BACKGROUND

The City of Las Vegas is in a partnership with Sportspark for construction and operation of recreational facilities on land owned by the Bureau of Land Management and patented to the City of Las Vegas.

CONCLUSIONS/FINDINGS/RECOMMENDATIONS

Due to the external scope limitation, we were unable to formulate a conclusion regarding the financial viability of Sportspark.

August 14, 2000

During our fieldwork, Sportspark was cooperative in supplying most information related to compliance with the Agreement. However, we were denied access to information related to the operations of Sportspark and related financial records.

The following sections detail our findings and recommendations with regard to the stated objectives and identified issues.

COUNCIL QUESTIONS

The following are answers to concerns raised by the City Council in regard to Sportspark:

Commercial Lender

Sportspark received a loan commitment letter dated March 20, 1998 for \$3,615,000 from the lender. The City Council received and accepted the loan commitment letter in its April 13, 1998 Council meeting.

On July 21, 2000, the lender issued a Demand for Payment. This was the result of Sportspark's failure to remit payments due in accordance with the note since July 1, 2000. As a result, \$5,223,926.89 and \$162,784.64 were due on August 3, 2000. As of August 14, 2000, no action has been filed in Clark County against Sportspark with regard to the Demand for Payment.

Financial Viability of Sportspark

Due to the external scope limitation, we were unable to formulate a conclusion regarding the financial condition of Sportspark.

Operational Audit of Sportspark

An operational audit of Sportspark was not performed because necessary records and data were not provided.

Legal Claims

A review of the records at the Clark County Recorder's Office showed that there are three outstanding liens and one lawsuit pending as follows:

- ? Whodunit Plastering Inc. for \$132,568.00 against Don Schlesinger and the City of Las Vegas. Whodunit Plastering Inc. informed us that \$1,500 remains to be paid;
- ? UNLV Plumbing and Mechanical Inc. for \$12,180.69 against Don Schlesinger related to work performed at the Sportspark;
- ? Value Fence, Inc. for \$24,303.70 against Donald Schlesinger and Las Vegas Sportspark Ltd; and
- ? Silver State Electric Supply Company has litigation pending against Don Schlesinger and Las Vegas Sportspark Ltd.

Recreational Program Objectives

The Sportspark features an ice rink, a rolling rink, three softball fields, an arcade, a pro shop, a concession stand, and a tutoring lab. Sportspark offers the following activities and events:

August 14, 2000

- ? Various organized ice and roller hockey, basketball, and softball leagues for youth and adults;
- ? Hockey and skating schools, clinics and camps;
- ? Hockey and softball tournaments;
- ? Approximately 30 hours weekly of ice and roller rink time for public skate sessions;
- ? Dances and birthday parties; and
- ? A tutoring lab.

Business License

On April 16, 1999, Sportspark was issued conditional business licenses pending issuance of a Certificate of Occupancy (C of O) from the Building and Safety Department. On August 6, 2000, two permanent business licenses were issued to Sportspark. One license was for the skating rink and another for miscellaneous services.

Certificate of Occupancy

On July 27, 2000, the City of Las Vegas issued a permanent C of O to Sportspark. The issuance of a permanent C of O was contingent upon the installation of a separate waterline to provide adequate water for fire suppression.

Water for Operations

The following summarizes water for operations issues:

- ? The City of Las Vegas has a meter for the water at Bruce Trent Park. Sportspark does not have a separate, independent meter. Therefore, the City bills them for their water usage.
- ? The City of Las Vegas has utilized an estimate for billing water usage to Sportspark.
- ? In December 1999, the City of Las Vegas and Sportspark entered into an agreement regarding water. This amendment to the original agreement requires the installation of a sub-meter to record Sportspark's water usage. Sportspark will reimburse the City on a monthly basis.
- ? The sub-meter was installed as of the end of July 2000.
- ? The City of Las Vegas under billed Sportspark for usage over the past 15 months. The under billing of approximately \$16,000 was identified during the course of the audit.

Seating in the Ice Arena

While the ice rink has spectator seating, seating is inadequate for large groups to watch ice hockey games.

Sportspark stated the following:

- ? Sportspark is a community recreation facility, not a spectator oriented facility.
- ? The number of spectator seats is more than adequate to accommodate those parents or friends who come to watch our recreation hockey players.
- ? Should the need arise for additional seating on a temporary basis for the ice rink, portable seats from the other rink and ballfields would be provided.

August 14, 2000

AGREEMENT COMPLIANCE

SPORTSPARK

The following issues were noted regarding compliance:

Untimely and Erroneous Land License Fee Payment

- ? Sportspark paid the land license fee payment over two months late.
- ? Sportspark underpaid the land license fee by \$247.69.

Insurance Requirement Deficiencies

- ? Sportspark did not provide a copy of the required insurance policies for all periods covered by the Agreement.
- ? The City was not noted as an additional insured as stipulated in the Agreement.
- ? Insurance policies did not contain a provision requiring 30 days written notice from the insurer prior to any cancellation.

Unauthorized Uses

- ? Sportspark subleased its conference/meeting room to Summerlin Kumon for tutoring without proper authorization by the City.
- ? Dances were held at Sportspark without approval or required business licenses.

Reporting Requirements Deficiencies

- ? Sportspark has not provided the City with quarterly schedules of upcoming uses, activities, and events or quarterly statements identifying activities or services that have been added or deleted since commencement of operations.
- ? Activities and services at Sportspark previously not included on the initial schedules provided to the City include dances and a tutoring lab.
- ? Sportspark did not submit the sub-use agreement between Sportspark and Summerlin Kumon (tutoring lab) to the Director of Leisure Services.

Sub-Contract Deficiencies

- ? The sub-use agreement between Sportspark and Summerlin Kumon does not contain a requirement that the subcontractor comply with the terms of the Agreement between Sportspark and the City.

Unauthorized Fee Structure Changes

- ? Sportspark changed its hockey and skating fee structure without approval. However, the per season charge per team for softball has not exceeded the dollar cap amount stipulated in the Agreement.

Delinquent Property Taxes

- ? Las Vegas Sportspark Ltd. is delinquent on real property taxes on their facility in the amount of \$77,870.21 and an additional \$7,787.02 in penalties.

August 14, 2000

- ? Personal property taxes are not due until August 28, 2000.

Untimely Payment for Water Usage

- ? Sportspark failed to pay the City within 30 days on 6 of 10 occasions.

Recommendation

City management should notify Sportspark of the noted deficiencies and require they be remedied. Should remedial actions be insufficient, the City should enforce the terms of the Agreement.

CITY OF LAS VEGAS

The following issues were noted regarding compliance:

Absence of Formal Periodic Inspections

- ? While there have been various visits to the Sportspark by City employees, there is no evidence of formal, routine inspections of the facility by the City's Director of Leisure Services as required under the Agreement.

Promotional Efforts

- ? Sportspark stated the City's efforts to promote Sportspark have been inadequate:
 - o For a short period of time following the opening of Sportspark, city staff responded in a few instances to requests for assistance.
 - o The City has not included any reference to Sportspark in its many area mailings or on its television station.
- ? Leisure Services personnel stated that reasonable efforts were made to promote Sportspark:
 - o Several meetings were held with Sportspark representatives about promoting the facility.
 - o Grand opening information was faxed to Corporate Challenge participants.
 - o Sportspark publications were included in distributions to the public and to the City's softball contact list.
 - o The City exposed the facility to over 500 youth in the City's 1999 summer programs through City sponsored fieldtrips to the Sportspark.

Recommendations

We recommend the following actions:

- ? The Director of Leisure Services or designee should begin documented formal periodic inspections of Sportspark.

August 14, 2000

- ? The City and Sportspark should together more clearly define their roles and responsibilities as they relate to the promotion of Sportspark.

IDENTIFIED ISSUES

The following issues were also noted:

Inadequate Contract Oversight

- ? Incidents of default in performance of the terms and conditions of the Agreement by Sportspark were not identified and communicated to City management on a timely basis.
- ? Defaults in performance by Sportspark were either not communicated to Sportspark in a timely manner or not at all.
- ? Discussions with City management and staff revealed confusion regarding roles and responsibilities as they relate to oversight of the Agreement.

Incorrect Water Billing

- ? The City incorrectly calculated the water billing to Sportspark. As a result, the City under billed Sportspark approximately \$16,000 through June 2000.

Unbilled Express Plans Check Charge

- ? Building and Safety did not receive the final copy of the Agreement. The copy they received waived the Express Plans Check service charge.
- ? The final copy of the Agreement did not waive the charge.
- ? The City did not bill the \$3,200 for the Express Plans Check service.

Recommendations

We recommend the following actions:

- ? The City Manager's Office should identify and communicate the roles and responsibilities of the various City departments and divisions in oversight of the Agreement.
- ? The City should bill Sportspark for under billed water usage (approximately \$16,000).
- ? A sub-meter was installed in July 2000. The City should now accurately determine and bill Sportspark for their water usage.
- ? Building and Safety should bill Sportspark \$3,200 for the Express Plans Check service.

CAO 2400-0001-01

August 14, 2000

Prepared by:

Philip Cheng, CIA
Senior Internal Auditor

Approved by:

Radford Snelding, CPA, CIA, CFE
City Auditor

c: Mayor
City Council
City Manager's Office
Audit Committee
City Clerk's Office